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**Filed** : April 12, 2004

### **REMARKS**

Claims 1-23 and 26-37 were pending prior to the amendments herein. Claims 18 and 23 are amended herein. Claims 1-17, 19, and 35-37 have been canceled without prejudice. Applicants expressly reserve the right to pursue the canceled claims in a later application. New Claims 38-42 have been added. Claims 18, 20-23, 26-34, and 38-42 are therefore pending.

#### **Claim Amendments**

Applicants have amended Claim 18 to clarify that the fluid control device comprises a pressure generator configured to pressurize the liquid flow, the gas flow, or the mixed flow delivered to the outlet. Applicants submit that the amendment is fully supported by the application and that no new matter is added by this amendment. For example, see ¶ [0085] of the published application.

Applicants have amended Claim 23 to clarify that the valve system is configured to allow into the outlet a water flow from the liquid inlet while stopping an air flow from the gas inlet, that the valve system configured to allow into the outlet the air flow from the gas inlet while stopping the water flow from the liquid inlet, and that the valve system configured to allow into the outlet a mixed flow comprising the water flow and the air flow. Applicants submit that the amendment is fully supported by the application and that no new matter is added by this amendment. For example, see ¶ [0089] of the published application.

#### **Election/Restriction**

##### Claims 1-17 and 35-37

Applicants respectfully submit that Claim 1 is directed to an elected species, as the hose system depicted in Figure 3A may utilize the fluid control device of Figure 3B as well as other fluid control devices (e.g., the fluid control device illustrated in Figure 2B). However, in order to advance prosecution, Applicants have canceled Claims 1-17 and 35-37 without prejudice. Applicants expressly reserve the right to pursue the canceled claims in a later application.

##### Claim 19

Applicants respectfully submit that amended Claim 19 is directed to an elected species, as the fluid control device of Figure 3B illustrates a gas inlet system comprising the gas inlet 342

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and an internal gas passage 362 connected to the gas inlet 342, and implicitly an external gas hose coupled to the gas inlet 342. However, in order to advance prosecution, Applicants have canceled Claim 19 without prejudice. Applicants expressly reserve the right to pursue the canceled claim in a later application.

### **Response to Rejections Under 35 U.S.C. § 102**

Claims 18 and 20-23 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 1,450,000 to Jockers. Applicants respectfully traverse the present rejection because Jockers fails to teach or suggest, either expressly or inherently, all of the features of the rejected claims.

#### Claim 18

Applicants submit that Jockers does not provide all of the features of amended Claim 18. Jockers at least does not teach or suggest “a pressure generator configured to pressurize the liquid flow, the gas flow, or the mixed flow delivered to the outlet,” as recited by amended Claim 18. Jockers teaches a fuel oil spray burner that blends and compresses oil and air in a nozzle N. The nozzle N does not generate pressure, but merely constricts the fluid flow. *See* Jockers at p. 1, ll. 23-26. By contrast, amended Claim 18 recites “a pressure generator configured to pressurize the liquid flow, the gas flow, or the mixed flow delivered to the outlet,” such that the fluid control device can add pressure to the fluid provided to the output hose. For example, see ¶ [0085] of the published application. Additionally, Applicants respectfully submit that the outlet n of Jockers is not configured to be coupled to a hose. Therefore, Applicants submit that amended Claim 18 is not anticipated by Jockers. Applicants respectfully request that the Examiner withdraw the rejection of Claim 18.

#### Claims 20-22

As described above, Applicants submit that amended Claim 18 is not anticipated by Jockers. Claims 20-22 each depend from Claim 18. Thus, Claims 20-22 include all the features of amended Claim 18 and recite unique combinations of additional features not taught or suggested by the cited references. Therefore, Applicants respectfully request that the Examiner withdraw the rejections of Claims 20-22.

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### Claim 23

The Examiner states that the recitation in Claim 23 of the flowing material is not a limitation. "Claims which are in improper dependent form for failing to further limit the subject matter of a previous claim should be objected to under 37 CFR 1.75(c)." M.P.E.P. § 608.01(n)(II), ¶ 3. An objection to Claim 23 for failing to limit the subject matter of Claim 18 is not before Applicants. However, to advance prosecution, Applicants have amended Claim 23 to recite that the valve system is configured to allow into the outlet a water flow from the liquid inlet while stopping an air flow from the gas inlet, that the valve system configured to allow into the outlet the air flow from the gas inlet while stopping the water flow from the liquid inlet, and that the valve system configured to allow into the outlet a mixed flow comprising the water flow and the air flow.

As described above, Applicants submit that amended Claim 18 is not anticipated by Jockers. Claim 23 depends from Claim 18. Thus, Claim 23 includes all the features of amended Claim 18 and recites a unique combination of additional features not taught or suggested by the cited references. Therefore, Applicants respectfully request that the Examiner withdraw the rejection of Claim 23.

### **Response to Rejections Under 35 U.S.C. § 103**

Claims 26-34 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,857,583 to Attar in view of U.S. Patent No. 5,529,460 to Eihusen et al. Applicants respectfully traverse the present rejection because Attar, either alone or in combination with Eihusen, fails to teach or suggest all of the features of the rejected claims.

### Claim 26

Applicants submit that Attar, either alone or in combination with Eihusen, does not provide all of the features of Claim 26. As noted in the Final Office Action, Attar does not teach or suggest that a lumen of an output hose has a smaller cross-sectional area than a lumen of an input hose.

Eihusen also does not teach or suggest that a lumen of an output hose has a smaller cross-sectional area than a lumen of an input hose. Eihusen teaches an inlet hose 36 and an outlet hose 37, but does not teach or suggest anything about the cross-sectional areas of the hoses 36, 37.

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Applicants respectfully submit that Figures 1 and 2 do not illustrate that the hoses 36, 37 have different cross-sectional areas or that a lumen of the output hose 37 has a smaller cross-sectional area than a lumen of the input hose 36.

Assuming, *arguendo*, that Eihusen's hoses 36, 37 in Figures 1 and 2 are drawn with different sizes, the written description of Eihusen does not explicitly teach or suggest that a lumen of the output hose 37 has a smaller cross-sectional area than a lumen of the input hose 36. When a reference does not disclose that the drawings are to scale and is silent as to dimensions, arguments based on measurement of the drawing features are of little value. M.P.E.P. § 2125, ¶ 2 (citing *Hockerson-Halberstadt, Inc. v. Avia Group Int'l*, 222 F.3d 951, 956, 55 U.S.P.Q.2d 1487, 1491 (Fed. Cir. 2000)).

Moreover, a person of skill in the art would not believe that Eihusen teaches that the hoses 36, 37 have different cross-sectional areas. Additionally, Eihusen does not suggest, either implicitly or explicitly, modifying the apparatus of Attar to use inlet and outlet hoses having different cross-sectional areas. Eihusen does not mention, let alone describe any advantages associated with, using input and output hoses of different cross-sectional areas. Therefore, it is not reasonable to take the position that Eihusen would have motivated such a modification of Attar.

Therefore, Applicants respectfully request that the Examiner withdraw the rejection of Claim 26.

#### Claims 27-34

As described above, Claim 26 is patentable over Attar, either alone or in combination with Eihusen. Claims 27-34 depend from Claim 26. Thus, Claims 27-34 include all of the features of Claim 26 and recite unique combinations of additional features not taught or suggested by the cited references. Therefore, Applicants respectfully request that the Examiner withdraw the rejections of Claims 27-34.

#### **New Claims**

Claims 38-42 have been added. Applicants submit that the new claims are fully supported by the application as originally filed and that no new matter is added by these claims. For example, see ¶¶ [0068], [0085], & [0087] of the published application. Applicants

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respectfully submit that Claims 38-42, which depend from, and include all the features of, Claim 18, which is allowable as discussed above, are also allowable. Furthermore, each of the new dependent claims recites further distinguishing features of particular utility.

### Summary

Applicants respectfully submit that all of the pending claims are allowable. Applicants respectfully request that the Examiner withdraw the rejections and pass Claims 18, 20-23, 26-34, and 38-42 to allowance.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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Dated: 2/20/07

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